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Current Topics.

Photostat.

WE PUBLISH in our Correspondence columns a letter from the Establishment Officer of the Principal Probate Registry announcing that the Photostat method of reproduction is to be introduced in the Probate Registry for the making of probate engrossments of wills lodged on and after the 29th December. The announcement is, to say the least of it, somewhat sudden in view of the importance of the change. We understand, moreover, that the Law Society has not previously been consulted with regard to it. The Photostat reproductions will be of engrossment size, i.e., foolscap, and that annexed to the Grant will be supplied without charge. Although the letter defines, to some extent, the cases in which the ordinary probate engrossments will still be required, the definition is by no means exhaustive and many cases can be foreseen in which solicitors will not know whether or not an engrossment should be lodged with the will when applying for representation. For example, if the paper on which the will is written is substantially larger than foolscap and the writing is small, the reduction in size to foolscap will, in some cases, make the copy illegible. No doubt in time, when experience of the system has been gained, it will be possible to judge what wills can and what cannot be reproduced by Photostat, but, in the meantime, in view of the very short notice of the introduction, and the fact that the profession has not had an opportunity of giving its views on the matter, some confusion is bound to arise. It is to be noted that District Registries are not affected.

Engaged Couples and Undue Influence.

Mr. Justice MAUGHAM recently referred to an unusual extension of the law of undue influence to the relationship of an engaged man to his fiancée. His lordship stated that a young woman engaged to be married generally "reposed the greatest confidence in her future husband and in most cases would sign almost anything he put before her. The doctrine of *Huguenin* v. *Baseley*, 14 Ves. 273; 9 R.R. 276, applied to such a relationship, and the reasons given in *Howes* v. *Bishop* [1909] 2 K.B. 390, for not extending the equitable principles to the case of a husband and wife had no application." The former case is generally regarded as the authority which lays down the principles on which the court will act in setting aside agreements on the ground of undue influence. In that case an heiress settled a substantial estate on a clergyman who had managed to insinuate himself into her confidence, and only reserved an annuity of £400 for herself. Sir SAMUEL ROMILLY, in the course of his excellent argument on behalf of the plaintiff, said that "the relief stands upon a general principle applying to all the variety of relations in which dominion may be exercised by one person over another," and the court apparently adopted that view and set aside the settlement. Lord COTTENHAM, L.C., adopted these words of Sir SAMUEL ROMILLY in *Dent* v. *Bennett*, 4 My. & Cr. 269; 48 R.R. 94, when setting aside an agreement by a patient requiring his trustees to pay £25,000 to his medical attendant within six months after his, the patient's, death. Incidentally, he referred to Sir S. ROMILLY's speech as "his celebrated reply from hearing which I received so much pleasure that the recollection of it has not been diminished by the lapse of more than thirty years." The extension of the rule that there is a *primâ facie* presumption of undue influence against parties standing in certain relationships towards persons making gifts, to the relationship between persons engaged to be married, is not entirely without authority. In *Lovesy* v. *Smith*, 15 Ch. D. 655, Mr. Justice DENMAN, in decreeing rectification of a marriage settlement drawn up by a prospective husband on the eve of his marriage, and brought by him to his fiancée for execution on the morning of the marriage day, said: "The relation between the parties was one of peculiar delicacy, involving in a high degree the duty of fully explaining the particular provision in LOVESY's favour which it is now sought to reject." The law is clear, and it is perhaps a tribute to the fundamental goodness of human nature that direct authority on the point is as scanty as it is. No doubt the majority of engaged couples "live happily ever after."

Gifts "Free of Death Duties."

THE DECISION in *In re Laidlaw; Wilkinson* v. *Lyde* (*Weekly Notes*, 9th August), adds another to the long list of cases in which the extent and operation of a direction in a will that legacies and annuities shall be paid "free of death duties" has been discussed. The question which usually arises in these cases is whether the direction applies only to duties payable upon the testator's death, or whether it extends to future duties payable by reason of the cesser of annuities and life interests given by the will. It is now clearly settled, as EVE, J., held, that such a direction exempts all persons taking under the will from payment of legacy duty whenever payable. But with regard to future estate duties the problem is much more difficult, because the rate of duty has varied from time to time and depends, owing to the principle of aggregation, on the amount of the estate passing on the death of the person entitled. *In re Laidlaw*, the testator, the late Sir ROBERT LAIDLAW, by his will, directed that all legacies and annuities should be "satisfied paid and enjoyed" free of death duties. This is a very wide direction and almost exactly the same words were found in the will in *In re Stoddart* [1916] 2 Ch. 444, where SARGANT, J., held that they operated to cover future estate duties, and not merely duty payable on the testator's death. But in *In re Wedgwood* [1921] 1 Ch. 601, the majority of the Court of Appeal held that the expression "free of death duties" would only exempt immediate gifts from estate duty unless there could be found a very clear and positive intention in the will that the direction should extend to future estate duties. There was such a context in *In re Stoddart*, where the testator directed his executors to "pay or provide for" all death duties, showing an intention to relieve legacies from duties which were not immediately payable. But EVE, J., was able in *In re Laidlaw* to find a context which pointed the

other way. The testator there, who left over £500,000, and provided very large sums for legacies, both settled and otherwise, bequeathed to some of his relatives additions to their legacies upon the contingency of his net residuary estate exceeding the comparatively modest sum of £25,000. It was argued by counsel for the residuary legatees that such a provision clearly showed that the testator expected that his net residuary estate would be ascertainable within a reasonably short time after his death, probably the executors' year, and that would obviously become impossible if the estate were to be burdened with future duties of an uncertain amount, payable, it might be, years hence. The learned judge, holding that this argument prevailed, applied the rule in *In re Wedgwood*, and held that the direction exempted legatees only from estate duty payable on the testator's death.

Remoteness of Damage in Contract and Tort.

No one has a keener eye to detect any statement of law in a judgment pronounced by any of the courts which comes into conflict with previous undoubted authority than Sir Frederick Pollock, and in the last edition of "Pollock on Torts (1929)," he refers in the preface to and criticises in the text the decision of the Court of Appeal in *In re Polemis and Furness Withy & Co.* [1921] 3 K.B. 560, and suggests that it is contrary to the famous decision of the Exchequer Chamber in *Hadley* v. *Baxendale*, 9 Ex. 341. He thinks that Blackburn and Willes, JJ., would have been shocked beyond measure by the decision in the *Polemis Case*, which in effect laid down that there was no limit to remoteness of damage flowing from negligence. In the *Polemis Case* a Greek steamer had been chartered by a British firm and was discharging cargo, part of which consisted of cases of benzine, at Casablanca. Some of the cases had suffered injury from heavy weather and leaked, so that there was a considerable amount of petrol vapour in the hold. In the course of the work a sling dislodged a plank used as part of a platform and it fell into the hold, with consequences that no reasonable person could possibly have anticipated. There must have been a nail or other piece of metal in the plank, for in the fall on the cases it struck a spark, causing a violent explosion of accumulated vapour and setting the ship on fire. The owners claimed for the loss of the ship as due to the negligence of the Arab crew engaged in discharging her, and the arbitrators awarded full damages (nearly £200,000). On appeal the court upheld the award, referring, curiously enough, to "Pollock on Torts," (11th ed.), as an authority, and holding that once negligence was proved the charterers were liable to the owners for any damages which flowed from it, however impossible for any reasonable person to anticipate. The decision in *Hadley* v. *Baxendale* was not cited to the court. In 1927 however, a very learned writer, Professor Winfield, in a section on damages added by him to "Salmond on Contracts," pointed out that the *Polemis Case* was an action not in tort but in contract, as it arose out of a charterparty, and, therefore, the decision conflicts with the well-known rule in *Hadley* v. *Baxendale*, as stated by Baron Alderson, where loss of profit due to negligent delay of a carrier in delivering machinery to engineers for repair was held too remote to be recovered as being beyond the foresight of reasonable parties. If such damages were too remote, the damages in *Polemis* were a hundred times more remote. Sir Frederick Pollock thinks it may be just possible to reconcile the decision in *Polemis* with *Hadley* v. *Baxendale*, by a violent artificial construction of the first part of the rule, but even so it would leave nothing of the second part of the rule (as to the effect of special circumstances within the knowledge of the parties) to operate upon. The point of view of the Court of Appeal is quite different, but it could not even if it would overrule *Hadley* v. *Baxendale*, nor is it credible that the House of Lords would do so. The result is that a very serious doubt is cast upon the decision of the court in the *Polemis Case*, and the chances are that it will one day be overruled.

A Decade of the Permanent Court of International Justice.

[Contributed.]

On 16th December, 1930, ten years will have elapsed since the "Statute of the Permanent Court of International Justice" at the Hague was signed at Geneva. The moment may not be inopportune for a brief account of the history and constitution of this tribunal and of some of the contributions that it has made to international law during the first decade of its existence. In the historical portion of this survey, due regard will be paid to the warning note struck by Judge Dandin, in *Les Plaideurs*, in interrupting an advocate, who opened his argument with the words "avant la naissance du monde," "Avocat, ah, passons au déluge."

In the settlement of international disputes, negotiation, "good offices" and mediation had always played, as they may still again play, their part. Conciliation, and arbitration both as an *ad hoc* remedy for an antecedent and as a provision, by virtue of express treaty stipulations, for future, disputes were well known to ancient Greece and Rome (see Ralston, "International Arbitration," p. 153), and figure prominently both in mediæval and in modern history. The Hague Conference of 1899, summoned at the instance of the Czar of Russia, made two important steps in advance. It created a Permanent Court of Arbitration at the Hague, and it recommended that in disputes arising out of questions of fact and involving "neither honour nor vital interests," which the parties could not settle by negotiation, they should, as far as circumstances allowed, institute an International Commission of Inquiry to elucidate the material facts. The jurisdiction of the Permanent Court of Arbitration was, however, not compulsory, although Art. 37 of the Convention for the Pacific Settlement of International Disputes provided that recourse to arbitration implied an obligation to submit in good faith to the award. Moreover, the International Commission of Inquiry was merely an investigating body, on whose report the parties were free to act, or not, as they pleased. The tribunal was composed in each case of arbitrators chosen by the parties from a list constituted by selection by the contracting powers or from the members of the Permanent Court of Arbitration.

The Hague Conference of 1907, which met after the Dogger Bank incident had been investigated and reported upon by an International Commission of Inquiry, instituted under the Convention of 1899, carried matters a little further. It elaborated the procedure laid down in the earlier convention, providing for the embodiment, in a special *compromis*, of the whole terms and conditions of the arbitration. It submitted a Draft Convention for the creation of a Permanent Court of Arbitral Justice, which, without altering the status of the court constituted by the Convention of 1899, should be "composed of judges representing the various juridical systems of the world and capable of securing continuity in arbitral proceedings" (Scott, "Sovereign States and Suits," pp. 218-220; and Appendix II, No. 5). This Convention also recognised the *principle* of compulsory arbitration, and effected one application of that principle, founded on what is known as the Drago-Porter doctrine and stipulating that resort to force for the recovery of contract debts claimed by the government of one country from that of another as being due to its nationals should not be allowed, unless the debtor state refused arbitration.

Save as hereinbefore indicated, the Hague Convention of 1907 left things as they were. The Draft Convention as to the Permanent Court of Arbitral Justice was never ratified owing to divergences of opinion as to its composition among the states concerned.

The difficulty that had to be overcome is clearly indicated in the following proposition enunciated in the *Eastern Carelia Case* (Ser. B. No. 5, p. 27).

> "It is well established in international law, that no State can, without its consent, be compelled to submit its disputes with other States either to mediation or to arbitration or to any other kind of pacific settlement. Such consent can be given once and for all in the form of an obligation freely undertaken, but it can, on the contrary, also be given in a special case, apart from any existing obligation."

Acting on the spirit of this proposition, the Permanent Court of International Justice declined to pronounce an advisory opinion in the case just mentioned, on the ground that Russia, a party to the dispute, had refused to be bound by the proceedings.

The problem that had to be solved may be stated thus (See Scott, *ubi sup.*, p. 242).

> "The First Conference of 1899 internationalised arbitration. The Second Conference of 1907 . . . made of judicial settlement an international institute."

What was still wanting was "internationalised justice."

The idea of compulsory arbitration received further recognition, prior to the establishment of the League of Nations (i) in two treaties signed on 3rd August, 1911, between America on the one hand and Great Britain and France on the other (Oppenheim, Vol. II, p. 31) and (ii) in the BRYAN treaties of 1913-1914. The former, which were not ratified, provided for a binding determination of the question whether a dispute was arbitrable or not by a Joint High Commission of Inquiry. The latter, generally known as the "cooling-off" treaties, for a reason which a statement of their object at once explains, bound the contracting States, in case of the emergence of disputes, not to commit any hostile act, much less to go to war, for twelve months, within which period the facts were to be ascertained by an International Commission of Inquiry. The Bryan Treaties were some thirty in number, and of these, twenty-one secured ratification. The project of a Permanent Court of International Justice took definite shape under the Covenant of the League of Nations. The preamble of that instrument recited, among the means of securing its objects,

> "the firm establishment of the understandings of international law as the actual rule of conduct among Governments,"

and

> "the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organised peoples with one another."

Article 13 bound the members of the League to submit to arbitration any dispute arising between them "which they recognise to be suitable for submission to arbitration and which cannot be satisfactorily settled by diplomacy," and to carry out in good faith any award rendered. Among disputes "generally suitable for submission 'to arbitration'" are declared to be those as to (*a*) the interpretation of a treaty, (*b*) any question of international law, (*c*) the existence of any fact which, if established, would constitute a breach of any international obligation, and (*d*) the extent and nature of the reparation to be made for any such breach.

Article 14 of the Covenant required the Council of the League to formulate plans for the establishment of a Permanent Court of International Justice.

In pursuance of this last provision, the Council, on 7th February, 1920, appointed a committee of jurists to prepare a draft scheme. The scheme was submitted in September, 1920, and the Protocol of the statute, as already mentioned, was signed on the 16th December in the same year by forty-eight States, including the British Empire. The court was formally inaugurated at the Hague on 15th February, 1922.

The court* consists of eleven judges and four deputy-judges—a number which may have to be raised to fifteen judges and six deputy-judges (Art. 3). Its members are chosen by the Assembly and Council of the League of Nations acting independently from a list of candidates nominated by the national groups in the Permanent Court of Arbitration, (Art. 4), with whose status and functions the new tribunal does not interfere (Art. 1). Provision is made for a joint conference of representatives of the Assembly and the Council, if necessary (Art. 12). The official languages of the Court are French and English (Art. 34).

Only States or members of the League of Nations can be parties before the Court (Art. 34).

The jurisdiction of the Court extends to :—

(I) All cases which the parties refer to it (Art. 36).

(II) All matters specifically brought within its competence (Art. 36), or within the competence of "a tribunal to be instituted by the League of Nations" (Art. 37), in treaties and conventions in force.

(III) The matters enumerated in Art. 13 of the Covenant (cited above) as "suitable" for submission to arbitration, and accepted for *compulsory* submission by members of the League of Nations and the States mentioned in the Annex to the Covenant either signing or ratifying the Protocol of the Statute of the Court, or by subsequent adhesion (Art. 36).

(IV) Any matters referred to the Court for "advisory opinion" by the Council or the Assembly of the League of Nations (Art. 14 of the Covenant).

Head (III) constitutes what is known as the "optional-compulsory" clause. Its history is sketched in an interesting article by Dr. LODER on "The Permanent Court of International Justice" in the "British Year Book" 1921-1922, p. 61. It has been accepted, subject to reservations, by a number of foreign states, and by Great Britain, the Dominions and India (See for details, Sir JOHN FISCHER WILLIAMS, "The Optional Clause," "British Year Book," 1930, p. 63).

The law applied by the court consists of (1) international conventions, whether general or particular, establishing rules expressly recognised by the contesting States; (2) international custom, as evidence of a general practice accepted as law; (3) the general principles of law, recognised by civilised nations; (4) judicial decisions, and the "teachings of publicists" (Article 38). The above provisions are without prejudice to the power of the court to decide a case *ex requo et bono* if the parties agree (*ib*). The decisions of the court are only binding *inter partes* (Art. 59). They are without appeal (Art. 60), but provision is made for interpretation by the court, in the event of dispute as to the scope and meaning of a judgment (Art. 60), and for revision on the discovery of new facts of a decisive nature (Art. 61).

In the event of any failure to carry out an award, the Council of the League of Nations shall propose what steps to effectuate it shall be taken (Art. 13 of the Covenant). A "Protocol for the Revision of the Statute of the Permanent Court of International Justice" was adopted by the Council of the League of Nations at its Madrid Session on 12th June, 1929, and by the Assembly at Geneva on 17th September, 1929, and it was signed by forty-four States, two days later. On 9th December, 1929, the Protocol for Revision and the Protocol of Accession to the Permanent Court, subject to reservations, and, as regards both instruments to ratification, were signed by the United States.

The Protocol for Revision provides for the substitution, on the Permanent Court, of fifteen judges, for the original bench of eleven judges and four deputy-judges—the office of deputy-judge being abolished.

The case-law deducible from the decisions and advisory opinions of the Permanent Court of International Justice will be touched upon here only in so far as it deals with general questions of principle or practice.

1. Article 34 of the Statute (cited above) is founded on the conception that international law is concerned only with States and not with individuals as such.

This rule may hold good even where the damage suffered by an individual as the result of an act contrary to

*Except where otherwise specified, the references are to the Statute of the Court.

international law supplies a convenient, or even the necessary, scale for the estimation of the reparation due to the State.

"The reparation due by one State to another does not, however, change its character by reason of the fact that it takes the form of an indemnity for the calculation of which the damage suffered by a private person is taken as the measure. The rules of law governing the reparation are the rules of international law in force between the two States concerned, and not the law governing relations between the State which has committed the wrongful act and the individual who has suffered damage." (*Chorzów Factory*, Ser. A. No. 17 p. 28 (13th September, 1928)).

—a claim by Germany against Poland for damage alleged to have been done to German companies on Poland's taking possession of a nitrate factory at Chorzów.

The principle under consideration has, however, qualifications which must not be overlooked :—

(*a*) It does not prevent one State from granting to another the right to have recourse to international arbitral tribunals to obtain the direct award to nationals of the latter State of compensation for damage suffered by them as the result of infractions of international law by the first State (*Chorzów Factory, ubi supra*, p. 28).

(*b*) Although an international agreement cannot, as such, create rights and obligations for private individuals, its very object, according to the intention of the contracting parties, may be the adoption by the parties of some definite rules creating individual rights and obligations and enforceable by the National Courts. On this ground the Permanent Court gave an advisory opinion (Ser. B, No. 15, 3rd March, 1928) that the Danzig-Polish agreement of 22nd October, 1921 (Beamtenabkommen) necessarily implied the jurisdiction of the Danzig courts over certain pecuniary claims by Danzig railway officials, who had passed into the Polish service, against the Polish Railways Administration.

(*c*) A State may create and maintain for certain categories of private claims arbitral tribunals of a special international character, such as the Upper Silesian, and the German-Polish Mixed, Arbitral Tribunals (*Chorzów Factory, ubi supra*). The exclusion of direct claims by individuals from the competence of the Permanent Court has been the subject of considerable juristic criticism (see Rundstein, *Arbitrage International*, Rec. des Cours, Vol. 23, pp. 425-426). Unofficial proposals have been made for the establishment at the Hague of Permanent International Courts of Civil and Criminal Justice.

2. A State, by adopting the claim of one of its nationals, makes itself the claimant.

This rule was laid down in the well-known case of the *Mavrommatis Concessions in Palestine* (Ser. A., No. 2, 30th August, 1924). MAVROMMATIS, a Greek subject, had acquired from the Ottoman Government concessions for certain public works to be constructed in Palestine. The British Government, as Mandatory for Palestine, decline to recognise these concessions in their entirety. The Greek Government took up the case of its national and application was made to the Permanent Court for redress. The claim came before the court on three occasions, (i) on a plea to the jurisdiction (Ser. A., No. 2)—this is the stage with which we are at present concerned ; (ii) on the merits (Ser. A., No. 5, 26th March, 1925) ; and (iii) after the claim for pecuniary reparation had been negatived, with a finding, however, that the concessions should be brought into conformity with the new conditions by substituting new contracts for the old ones, on an application for re-adaptation (Ser. A., No. 11, 10th October, 1927).

(*To be continued.*)

A UNIVERSAL APPEAL.

TO LAWYERS: FOR A POSTCARD OR A GUINEA FOR A MODEL FORM OF BEQUEST TO THE HOSPITAL FOR EPILEPSY AND PARALYSIS, MAIDA VALE, W.9.

Extradition and Offences committed before Surrender.

A VALIANT attempt was recently made in the Court of Criminal Appeal to procure a reversal of the decision in the Central Criminal Court, under which a prisoner, who, having been out of the jurisdiction and having as a result of the setting in motion of extradition machinery, returned to this country to be tried on a charge of fraudulent conversion, was found guilty on several additional counts. In that case, *Rex* v. *Corrigan* (*The Times*, 8th November), the Court of Criminal Appeal upheld the finding that the prisoner had not, on the evidence, made out that he was surrendered under the extradition law, but that he returned voluntarily, although in custody, to this country to face any charges made against him.

The legal arguments turned on the meaning of s. 19 of the Extradition Act, 1870, and of Art. IV of the Treaty with France of 8th April, 1878, entitled "Treaty between Her Majesty and the French Republic for the mutual surrender of fugitive criminals." Section 19 of the Act provides as follows : "Where, in pursuance of any arrangement with a foreign state, any person accused or convicted of any crime which, if committed in England, would be one of the crimes described in the first schedule to this Act is surrendered by that foreign state, such person shall not, until he has been restored or had an opportunity of returning to such foreign state, be triable or tried for any offence committed prior to the surrender in any part of Her Majesty's Dominions other than such of the said crimes as may be proved by the facts on which the surrender is grounded." Article IV of the Treaty provides that "the present treaty shall apply to crimes and offences committed prior to the signature of the treaty ; but a person surrendered shall not be tried for any crime or offence committed in the other country before the extradition, other than the crime for which his surrender has been granted."

It is interesting to note that, although a person is thus protected by the Act of 1870 from being brought within the jurisdiction under pretext of being tried for a specific offence and, on arrival in the United Kingdom, being tried for a totally different offence, this protection is confined to purely criminal matters. Moreover, it will be seen that a prisoner cannot hope, under the cloak of this statute, to escape paying the penalty for contempt of court. The meaning of s. 19 is carefully considered by the Court of Appeal in *Pooley* v. *Whetham* (1880) L.R. 15 Ch. D. 435, where it was held that an attachment issued by the High Court of Justice for disobedience of an order in a civil action was not an offence within s. 19 of the Act of 1870. In that case the prisoner was extradited on a criminal charge and was acquitted of that charge. Nevertheless it was held that he was not entitled to be discharged from prison until he had purged his contempt by obeying the order.

Two passages from the judgments may serve to illustrate the principles underlying s. 19 and the scope of that section. JAMES, L.J., in the course of his judgment, says : "The Act clearly applies to this, that a man is not to be tried for any offence committed prior to the surrender, other than some crime which may be proved by the facts on which the surrender is grounded. There is no doubt of this, and, in my opinion, neither the words, nor what is called the spirit of the Act of Parliament . . . have any reference to what is, in this case, a mere civil process. Although the process assumes the form of punishment for contempt of court, it is merely to enforce obedience to an order of a civil court, to do something on behalf of, or for the benefit of, a private person." BRETT, L.J., says : "A contempt is not a matter which is a triable offence . . . The real truth is that the word 'offence' in the nineteenth section means a criminal charge, whether a felony or misdemeanour is immaterial, but an offence which would be triable in a criminal court." At the same time, it is clear from the report of that case that the prisoner, who was acquitted of the charge on which he had been extradited, might

have escaped paying the penalty of his contempt, if it had been proved that the extradition process had been used indirectly and improperly in order to bring him into the jurisdiction for the purpose of taking him under the attachment.

Attention may be drawn in conclusion to the following interesting query, which is raised in a footnote on p. 32 of "Biron and Chalmers on Extradition." "Query, if the offender on his release remains in the country which demanded and received his surrender, how long must the authorities wait before re-arresting him?"

Company Law and Practice.

LVI.

SUBSIDIARY COMPANIES.

A SUBSIDIARY company within the meaning of the Companies Act, 1929, is elaborately defined in s. 127, but careful examination of this elaborate definition has shown that it is not impossible to drive, if not a coach and four, at any rate some smaller, but equally damaging vehicle through it.

With this end in view we must look at the actual wording of s. 127 (1). The material wording for our purpose is as follows: "Where the assets of a company consist in whole or in part of shares in another company, whether held directly or through a nominee, and whether that other company is a company within the meaning of this Act or not, and . . . (*b*) the company has power (not being power vested in it by virtue only of the provisions of a debenture trust deed or by virtue of shares issued to it for the purpose in pursuance of those provisions) directly or indirectly to appoint the majority of the directors of that other company, that other company shall be deemed to be a subsidiary company within the meaning of this Act."

There are two points to which I wish to draw attention to-day in connexion with this definition, the first with regard to the words in brackets "power vested in it by virtue only of the provisions of a debenture trust deed," and the second with regard to the words "directly or indirectly to appoint."

Now suppose we have a company which holds shares in another company, the second company being a colliery company. The colliery company is in need of money, and it therefore by deed mortgages all its minerals in favour of the first company; the mortgage deed contains a provision (and such provision is not unknown) to the effect that the mortgagee company may nominate persons as directors of the colliery company. Assuming that such a power in the particular case extends to a majority of the board of the colliery company, is this a power of the kind referred to in parenthesis in the section, "vested in it by virtue only of the provisions of a debenture trust deed"? If it is, the colliery company is not, under the provisions of this sub-section at any rate, a subsidiary company to the mortgagee company.

It seems impossible to say that the expression "debenture trust deed" can include a mortgage, or even, to push the matter a little further, a debenture. The definition section (s. 380), is no help one way or the other. Yet, if these are not included, what sort of logic is there in the sub-section? Why should the power when conferred by a trust deed have a different effect for this purpose from the same power when conferred by a mortgage, or by a debenture? One can only say that it has, on true construction of the section, a different effect, and leave it at that.

To continue with the example of the colliery company which executes such a mortgage as is mentioned above, having come to the conclusion that the words in brackets in the sub-section do not operate to take such a case out of the section, is the colliery company a subsidiary company by virtue of the fact that its mortgagee company has power "directly or indirectly to appoint the majority of the directors"? This seems, to put it no higher, to be extremely doubtful, as it is not possible to say with certainty that any person on whom any such power is purported to be conferred can enforce a nomination made by him. This question was discussed in this column some little time ago (Art. XXIX of the series) but it may not be out of place to recapitulate here as briefly as possible.

In cases of this kind there are two possibilities—one that the nomination actually makes the nominee a director, and the other that the nomination must be followed by appointment by the company of such nominee; which possibility governs any particular case must be a question of construction. There are two reported decisions, one is *British Murac Syndicate* v. *Alperton Rubber Co.* [1915] 2 Ch. 186, where it was held that nomination actually made the nominee a director, and the other *Plantations Trust* v. *Bila* (*Sumatra*) *Rubber Lands* [1916] 85 L.J. Ch. 801, where it was held that appointment by the company was necessary after nomination. In the *Murac Case*, SARGANT, J., made a declaration that the persons nominated were directors, but added that the court would not force the company to accept on its board unfit or thoroughly unacceptable persons. In the *Plantations Case*, EVE, J., after refusing relief on the facts to the nominators, expressed doubt as to the possibility of forcing directors on a company in circumstances such as these.

The materiality of these two cases in the construction of the words "power to appoint" in s. 127 (1) (*b*) is very apparent. It is clear that no one can say with certainty that he has a power to appoint directors, which he can in every case enforce, if only because he might attempt to appoint an unsuitable person. Accordingly if "power to appoint" in the section is to be construed as "effective power to appoint" powers of this kind are not within the section, as they are not necessarily effective. But would the section refer to a power if it were not an effective power? Unhesitatingly one would answer no, but for the fact that it is not easy to see, in view of the decisions above, when one can have an effective power. Had the wording been "power to nominate," no such difficulty would have arisen, but this is not the case. Perhaps the true view is that a power to appoint without further action by the subsidiary (as in the *Murac Case*) is within the section, even though such a power is not necessarily enforceable, but that a nomination requiring actual appointment by the subsidiary is not.

(*To be continued.*)

A Conveyancer's Diary.

Mortgagees' Power of Sale.

In a letter published in this journal for 15th November, Messrs. King, Hughes & Howse raise several points on this subject, especially with regard to the alteration in the estates of a mortgagor and a mortgagee effected by the L.P.A., and invited the views of other readers thereon. I thought at the time that the letter was a very interesting one and looked to see some further correspondence on the subject. No one seems, however, to have responded to the writers' invitation, so, as I think that the letter should certainly not be allowed to pass unnoticed, I propose to do my best to deal with the questions raised in it.

In the first place our correspondents (referring to mortgages of freeholds) point to the new situation created by the L.P.A., whereby both mortgagor and mortgagee now have legal estates, the former being the owner of an estate in fee simple and the latter of a term of years absolute, and they say, "As a result where for any reason the mortgage money has become due there appears to be a concurrent power of sale vested in the mortgagor and in the mortgagee."

Pausing there for a moment, there are, of course, concurrent powers of sale, but the mortgagor has only a power to sell

subject to the mortgage term which is vested in the mortgagee. The mortgagee, on the other hand (if his power of sale has become exercisable) has power to sell the fee simple under s. 88 (1) of the L.P.A., 1925.

Then, after pointing out that the taking of possession by a mortgagee does not convert the estate of the mortgagor into an equitable estate, and that the mortgagee's term is liable to cesser on payment of principal, interest and costs, our correspondents proceed to put their first point as follows: "In practice, therefore, a mortgagee's power of sale appears to be hampered by the fact that his interest in the land is liable to cease at any moment even after he has entered into a contract to sell the land. The mortgagee might then find himself liable in damages for breach of his contract to sell, although presumably he could refuse to release the mortgagor until the latter had paid the amount of the damages."

Now, I agree that the mortgagee's estate is liable to cesser as stated, but I do not see any mortgagee allowing himself to be put in such a position as that suggested.

If a mortgagee whose power of sale has become exercisable enter into a contract to sell the mortgaged property he would not be likely to accept the principal, interest and costs from the mortgagor and so put himself in a position in which he could not carry out his contract. If the mortgagor tendered him everything payable under the mortgage, the reply of the mortgagee would be that he had already exercised his power of sale by contracting to sell. The mortgagor, being in default, would have no right to complain, and certainly he could not succeed in an action to redeem.

I think that the position is for all practical purposes the same as it was before the Act.

If under the old law a mortgagee contracted to sell it would then have been too late for the mortgagor to tender the principal, interest and costs and claim to redeem. That, I think, is still the position, although it is true that formerly the mere payment by the mortgagor of everything due would not have had the effect, as it would now, of divesting the mortgagee of his estate.

Then Messrs. King, Hughes & Howse pass on to consider contracts for sale by mortgagors. They say: "It is conceivable that further complications might arise. For instance suppose the mortgagor enters into a contract to sell the fee simple, completion being fixed six months hence, and has the contract registered as a land charge. This would prevent a mortgagee whose power to sell had arisen from selling for at least six months."

That is a very ingenious point. Of course, if a mortgagor could by entering into such a contract and registering it as a land charge really defeat the mortgagee's power of sale, as suggested, we should have mortgagors by means of a succession of such contracts entered into every six months (why not twelve months or longer?) with persons neither able to complete nor to pay damages, keeping the mortgagee at bay and making it impossible for him ever to realise his security.

Whilst appreciating the ingenuity of the suggestion, I am afraid that it will not do.

If a mortgagor enter into a contract to sell in fee simple free from incumbrances he does so at his own risk. He cannot in fact sell without the concurrence of the mortgagee. Without that concurrence he can only sell subject to the 3,000 years' term vested in the mortgagee. He can, it is true, put himself in a position to convey by paying off the mortgage and obtaining a release or the concurrence of the mortgagee in the conveyance to the purchaser. But if before or after he has contracted to sell he, by his own default, put himself in a position that he cannot obtain such release or concurrence he has only himself to blame and must abide the consequences.

It does not, of course, matter for this purpose whether the contract of the mortgagor is registered or not. Registration only amounts to notice, and a purchaser from the mortgagee having ascertained the nature of the contract would disregard it as an equitable interest which would be over-ridden by the conveyance of the mortgagee.

Further, our correspondents suppose a case where the power of sale having arisen, a mortgagee puts the premises into the hands of an estate agent for sale at a price sufficient to cover principal, interest and costs, but before a sale is effected the mortgagee receives notice that the mortgagor has sold also at an adequate price. What is the mortgagee to do?

I think that it follows from what I have already said, that, unless I am altogether wrong, the mortgagee might in such a case go on and effect his own sale. He cannot know whether the contract entered into by the mortgagor will ever be completed or even whether it is a genuine contract at all, and he is certainly in no way bound by it.

Here again the mortgagor has taken the risk. If he had not made default he could have completed his contract, paying the mortgagee off out of the purchase money, but having made default he runs the risk of the mortgagee exercising his power of sale and selling the fee simple over his head and leaving him without any estate which he can convey to a purchaser.

I may add that it would always be rather dangerous for a mortgagor, although not in default, to contract to sell and fix completion for months ahead. The mortgagee might give notice to pay off and at the end of three months the power of sale would become exercisable. The mortgagee could then proceed to sell. I know of no reason why he should wait to see whether the contract made by the mortgagor was completed, and he could only be prevented from selling by the mortgagor paying him off, which might not be practicable.

I think that I have dealt with the main points in Messrs. King, Hughes & Howse's letter, which interested me very much, and I hope that my attempt at a solution of their difficulties may prove helpful. At the same time there are so many pitfalls in the 1925 Property Statutes that one can never be sure of having avoided them all in writing about any questions arising under those Acts.

Landlord and Tenant Notebook.

Decontrol of Part of Premises.

The Government has set up a departmental committee to consider the working of the Rent etc. Restriction Acts, but, pending their report, has decided to extend those Acts for another year in the usual manner. The application of the Acts is defined by various clauses and sections of a positive, negative or restrictive character; and one result, which was probably not intended by the Legislature, is that some statutory tenants who are in a position to "take in lodgers" derive more benefit from the statutes than mere security of tenure and protection against extortionate rent.

It must be remembered that s. 7 of the 1923 Act, which entitles the superior landlord to impose an increase in respect of sub-letting, only applies when the "part so sub-let" is a dwelling-house to which the principal Act applies. Consequently the section gives no remedy if rooms are sub-let furnished. But by parity of reasoning, the protection afforded by the principal Act does not extend to those rooms; and though in some cases if the landlord did obtain possession difficulties of access, etc., might interfere with his adequate enjoyment of possession, the possibility of bringing home to statutory tenants the fact that they are not entitled to make a profit out of the protection has, perhaps, not been fully exploited.

Normally, a claim cannot be made for possession of part of the premises demised; but that this sometimes can be done, at all events, in respect of property to which the Rent etc. Restriction Acts apply, was first demonstrated in *Salter* v. *Lask* [1924] 1 K.B. 754, C.A. The facts of that case were somewhat unusual, the plaintiff being already in occupation of

part of the premises; but the Divisional Court and the Court of Appeal held without hesitation that the claim he made could be lawfully made, though Bankes, L.J., uttered words of warning against employing such a device in order, say, to circumvent an objection to the jurisdiction of the county court.

Before that case, no claim limited to part of premises had been attempted; and such decisions as those in *Epsom Grand Stand Association* v. *Clarke* [1919] 35 T.L.R. 525—premises let partly as a public-house but substantially used as a dwelling-house—and *Colls* v. *Parnham* [1922] 1 K.B. 325—part of flat used as a boarding-house—illustrated the force of the proviso (ii) to s. 12 (2) of the 1920 Act, by which the application of the statute is not to be excluded by reason only that part of the premises is used as a shop or office, or for business, trade or professional purposes.

In the former case, however, possession was claimed of the whole; and in the latter, the issue was one of permitted rent. Then came *Salter* v. *Lask*, already mentioned; next *Phillips* v. *Hallahan* [1925] 1 K.B. 756, showed that a landlord who had obtained possession might let shop and living accommodation separately; and then a case to which sufficient importance has in our view not yet been attached, namely, *Gidden* v. *Mills* [1925] 2 K.B. 713.

Other matters were gone into in this case, but for present purposes the essential facts are that the premises had consisted of a coach-house and stable with living rooms above, and that the defendant tenant had converted them into a garage, which he used, and flat, which he sub-let unfurnished. Evidence was given that the flat had a separate and independent entrance; but it may be important to observe that this fact was not mentioned in the judgments. The plaintiff sued for possession of the whole, or alternatively, of the garage; and it was held that the proviso referred to meant that where a house is "let as a dwelling-house," *so that the statute applied*, user of part as business premises, etc., would not take the house out of the Act; but *not* that where part of a house was let separately as a dwelling-house and part was let separately for business premises, the Act applied to the whole house.

For an application of this reasoning to furnished premises decontrolled by virtue of proviso (i) to the same subsection, we have, unfortunately, only *obiter dicta*. In *Leslie & Co.* v. *Cumming* [1926] 2 K.B. 417, two rooms in a flat were, at the time of action brought, sub-let furnished. The plaintiffs, relying on other matters, unsuccessfully claimed possession of the whole; but Roche, J., said: "It may be that in accordance with the reasoning in *Gidden* v. *Mills* . . . the plaintiffs, if they had claimed possession of the two rooms . . . might have succeeded," and part of the judgment of Mackinnon, J., contains a similar implication. So when one considers that the effect of the Acts is to confer a status on premises rather than on persons, that separate lettings constitute separate premises, and that a judgment for possession can be obtained in respect of part of the plaintiff's interest, and binds whomsoever may be on the premises (see remarks of Greer, J., in *Gidden* v. *Mills*, *supra*, at p. 724), it would seem that there are means by which profiteering by statutory tenants can be stopped.

Our County Court Letter.

COMMERCIAL TRAVELLERS' RESTRICTIVE COVENANTS.

In *Stotherts, Ltd.* v. *Fryers*, recently heard at Ipswich County Court, the claim was for an injunction and damages by reason of the breach of a covenant not to call upon the plaintiffs' customers in six East Anglian towns for three years after the termination of a service agreement. The plaintiffs had assigned the towns in question to the defendant as from April, 1928, until he left their employ in May, 1929, and their case was that his knowledge of their customers would be very useful to another firm in the same business. Evidence was given by two former customers of the plaintiffs that they had received calls from the defendant on behalf of another firm, but they admitted that they had bought from other rival firms before being called upon by the defendant. The defendant's case was that (1) after leaving the plaintiffs' employ, he never visited the area in question for nine months, which was long enough for their connexion to be maintained by his successor, but (2) the latter had not called upon certain of the plaintiffs' customers, whom the defendant could name; (3) it was not necessary for the plaintiffs' protection to restrict him for three years, and the covenant was therefore unreasonable; (4) while he was now working for a firm in the same business as the plaintiffs, his present employers already had a connexion in the same towns. His Honour Judge Chetwynd Leech observed that the plaintiffs only sought to enforce the covenant as to the towns themselves, but not to the large area embraced by them, and the covenant was therefore reasonable and binding. An injunction was accordingly granted, but, as the defendant had not behaved fraudulently, judgment was given for nominal damages, viz., 20s. and costs, payable at 10s. a month, it being intimated that the plaintiffs might not enforce the order.

The nature of the occupation has resulted in restrictions being upheld over a larger area in the case of travellers than in the case of other employees. In *Continental Tyre and Rubber (Great Britain) Co., Ltd.* v. *Heath* (1913) 29 T.L.R. 308, the defendant had agreed, for a period of one year after leaving the plaintiffs, not to be concerned with dealings in rubber goods in any part of the United Kingdom, Germany or France. An injunction was claimed on evidence that one of the plaintiffs' customers had transferred to the Bavarian Rubber Company, whose employ the defendant had entered within the stipulated twelve months. Mr. Justice Scrutton (as he then was) held that the covenant was not too wide as to the commodity specified, and it was therefore not necessary to sever the covenant, so as to restrict the defendant to dealing in his own department of rubber goods, viz., solid rubber tyres. The covenant was too wide as to area, however, as the plaintiffs sold no goods in Germany or France, and the restriction was therefore severed so as to apply to the United Kingdom only. Judgment was accordingly given for the plaintiffs, with costs.

A case on the other side of the line was *Mason* v. *Provident Clothing Co., Ltd.* (1913) 57 Sol. J. 739, in which a canvasser had agreed not to be employed by anyone carrying on a similar business to the plaintiffs within twenty-five miles of London for three years. At Clerkenwell County Court, His Honour Judge Cluer granted an injunction, but this was dissolved in the Divisional Court by Mr. Justice Pickford (as he then was) and Mr. Justice Avory, on the ground that the area was too vague. The Court of Appeal (Lord Justice Vaughan Williams, the present Lord Wrenbury and Lord Justice Kennedy) restored the decision of the county court judge, but the House of Lords held that the covenant exceeded what was reasonably necessary, and was therefore void. Lord Haldane, L.C., pointed out that, although the restriction was for three years, the actual employment might only have lasted a fortnight, and that evidence cannot be given as to validity or reasonableness, which is a matter of law and not a question of fact for the jury.

ROAD TRAFFIC ACT, 1930.

The Secretary to the Ministry of Transport makes the following announcement:—

For the convenience of motorists arrangements have now been made under which applicants for motor drivers' licences under the Road Traffic Act, 1930, can obtain the necessary form of application, D.L.1, at any money order office in Great Britain.

Practice Notes.

OMNIBUS PASSENGERS AND OVERHANGING TREES.

THE question of liability for injuries from projecting branches was recently considered at Hull County Court in *Porter* v. *East Yorkshire Motor Services Limited, and the Corporation of Hull.* The plaintiff had been seated in the upper saloon, which was struck by a tree on the omnibus re-starting, with the result that a window was broken and the plaintiff was badly cut. The first defendants denied negligence, as (1) a motor cyclist swerved to pass a motor car, and the omnibus driver (having had to turn to the near side of the road to avoid the cyclist) stopped at once on hearing the crash of glass; (2) three months previously they had complained to the second defendants, who (after the trees had been cut) certified the route as being safe. The second defendants denied liability, and His honour Judge Beazley upheld their contention and gave judgment in their favour, but he held that the omnibus driver was negligent in not seeing and avoiding the tree, and judgment was therefore given against the first defendants for £77 10s. 3d. with costs. With regard to the liability of the landowner in similar circumstances, see a County Court Letter entitled "Legal Liability for Falling Trees" in our issue of the 14th January, 1928 (72 SOL. J. 27).

DANGEROUS ROAD EXCAVATIONS.

DAMAGES for injuries from the above are recoverable from a contractor employed by a local authority, as shown by the recent case of *Phillips* v. *Boswell* at Weston-super-Mare County Court. The plaintiff and a friend had been out walking after nightfall, and decided to look over the sea wall at some constructional work, but, in crossing the promenade to do so, the plaintiff trod in an unlighted hole, and sustained injuries to her knee and elbow. Her case was that, as the work was being done on the beach, she did not expect to find a hole on the actual promenade, but if there had been any lights she would have seen the danger. The special damage was £12 9s. 3d., and the amount claimed was £50, by reason of the defendant's negligence, which was denied. The defendant's manager stated that ten holes (out of a total of eighty-five) had been made at the time of the accident, but each was guarded by a red and white storm lantern, and there were also powerful gas lamps along the promenade. The foreman corroborated, and stated that each hole was guarded by planking, but he admitted that it might still be possible for someone to fall in. It was submitted that there had been contributory negligence by the plaintiff, who had disregarded the fences and warning notices, but was nevertheless relying upon a pedestrian's position as "the spoilt darling of the law." His Honour Judge Parsons, K.C., remarked that the lamp might have been hidden or extinguished, as it had not been seen by the plaintiff, whose evidence he accepted. Judgment was therefore given for the special damage (as claimed) and £25 general damages—a total of £37 9s. 3d., with costs. Compare a "Practice Note" entitled "The Lighting of Street Works," in our issue of the 6th December, 1930 (74 SOL. J. 814).

Reviews.

Odgers' Principles of Pleading and Practice in Civil Actions in the High Court of Justice. Tenth Edition. By W. BLAKE ODGERS, M.A., and A. H. ARMSTRONG, B.A. London: Stevens & Sons, Ltd. 1930. 15s.

A clever and persistent lady litigant of a past generation once described the late Dr. Blake Odgers' well-known treatise on libel and slander as her Bible. To his smaller, but none the less valuable, work on Pleading and Practice, the junior Bar might not inaptly apply the same epithet, for it is to them what in former days Bullen and Leake was to their predecessors. The present writer purchased the first edition when it was published in 1892 and found it a most useful work. Since then it has established its title to utility and popularity, as is evident by the frequency with which it has been re-issued in a larger form. In some quarters there is a tendency to minimise the importance of pleadings, and certainly, and happily, they do not hold the place they once did in our legal system, but it would be a serious mistake to treat them as of little importance. Indeed, every now and again we are reminded by the court that pleadings have their function, and an important one, in defining the issues upon which the court can base its decision. Thus, to take a very recent example, in *Blay* v. *Pollard & Morris* [1930] 1 K.B. 628, Scrutton, L.J., repeated, what he has had occasion to say more than once, that cases must be decided on the record, and that if it is desired to raise other issues they must be placed on the record by amendment. The diligent student of this volume will not readily make the mistake of omitting to plead the necessary averments to support his case. Not only so, he will be guided also as to the proper steps to be taken at each stage of the proceedings. Attention is directed to the alterations of the rules since the last edition was published, and there is a useful appendix of precedents. The volume should be on the desk of every pleader.

The Death Duties. By ROBERT DYMOND. We regret that in the review of this book, which appeared last week, the price was given as 12s. 6d. instead of 25s.

Correspondence.

Photostat.

Sir,—I am directed by the Senior Registrar to inform you that the photostat method of reproduction is to be introduced in respect of (*a*) probate engrossments of wills proved in the Principal Registry on and after 1st January, (*b*) the register copies of them, which can be inspected at the Principal Registry, and (*c*) all copies of proved wills bespoken by the public after 31st December.

Where a will contains no alteration, deletion, or interlineation, and is such that it would now be engrossed and admitted to probate as it stands, a photostat reproduction, of engrossment size, will be provided in the Registry without charge, and annexed to the grant. This course will also be adopted where alterations, etc., are clearly authenticated, in the will itself, by the initials of the testator and witnesses, or by reference elsewhere in the will.

In all other cases an engrossment or fiat copy will be required as at present; this will be photographed instead of the will.

In special circumstances, such as illegibility, incorporation of documents, the inclusion of non-testamentary matter, etc., an engrossment copy will be lodged; and also where a Registrar sanctions it on other grounds. It will not otherwise be accepted.

The document annexed to the grant will be a "positive" photograph, as will be the copies supplied of wills proved in the Principal Registry.

Negatives will be used for the register books.

The photography of engrossments will begin with the wills lodged on 29th December.

There will be no change in the existing practice as to fiat copies, pencil writings, and the evidence required to set up wills that are irregularly drawn or attested.

C. T. A. WILKINSON,
Establishment Officer.

Principal Probate Registry,
Somerset House,
London, W.C.2.
16th December.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten in duplicate, addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Company—Debenture Trust Deed—Floating Charge Subject to a First Mortgage—Registration.

Q. 2089. A company prior to the coming into operation of the Companies Act, 1900, executes a trust deed for securing an issue of debentures. The trust deed contains a floating charge on after-acquired property. In 1927 the company acquires certain leasehold property, a first mortgage on which, with the approval of the debenture-holders, is given to a building society, the debenture trustees having a second charge thereon by virtue of their trust deed. Section 12 of the Companies Act, 1907, has been complied with. Does the trust deed require registration as a puisne mortgage? What is the best practical course to adopt to secure the debenture trustees as far as is possible?

A. We do not think that any further action is necessary to protect the debenture trustees. Registration under s. 12 of the Companies Act, 1907, is presumably equivalent to registration under the corresponding section of the Consolidating Act of 1908; and if this is so, such registration is sufficient in place of registration under L.C.A., 1925 (*vide* s. 10 (5)) and has effect as if the charge had been registered under L.C.A., 1925 (*ibid*). Further, the existing registration will constitute actual notice of the charge (L.P.A., 1925, s. 198 (1) and 205 (3)). It might be advisable, though not necessary, to serve a formal notice on the building society; possibly, however, the trustees were parties to the society's mortgage.

Agricultural Holding Notice to Quit Part—Compensation.

Q. 2090. Agricultural land, subject to a farming tenancy agreement, has been purchased for development as a building estate. The tenancy agreement was entered into in 1926, and the then owners intimated that the land would shortly be required for building purposes, and accordingly a clause was inserted in the agreement that if the landlord required any part of the farm for building purposes, the tenant should quietly give up possession thereof on receiving one month's notice, and it was also provided that the tenant's rent should be reduced rateably according to the acreage so given up, and that the tenant should be entitled to compensation for any loss occasioned by the landlord exercising his right under the clause. Will you please advise whether the tenant would be entitled to receive full compensation in view of the fact that he knew that the land would be required for building purposes, or could our client, who has purchased from the landlord, subject to the tenancy, claim to give him smaller compensation.

A. The tenant is entitled to full compensation in accordance with the Agricultural Holdings Act, 1925, see s. 27 (2). This opinion is based on the assumption that the provision in s. 12 (7) (*b*), making it a condition precedent to a claim under the Act that the tenant should give notice one month before termination of the tenancy would be held not to apply where (as here) the agreement requires only one month's notice from the landlord. It is considered such assumption is well founded, but there appears to be no direct authority.

Will Bequest of Shares—Whether Victory Bonds Pass.

Q. 2091. By her will dated in 1924, after making certain pecuniary bequests, the textatrix gave "her leasehold house and her shares upon trust for sale and the proceeds to be divided between her nieces." The deceased was possessed of shares in three or four different companies, and also held some Victory Bonds which were purchased in 1919. The question is, are the Victory Bonds *shares* and form part of the above bequest? The question is of some importance to the persons receiving pecuniary legacies, as without this amount of Victory Bonds there will not be sufficient funds to pay their legacies in full.

A. It is considered clear that Victory Bonds would not pass under a gift of shares unless there was some context to indicate that the testatrix used the word "shares" in some enlarged sense. *Dillon* v. *Arkins* (1885), 17 L.R. Ir. 636, and *Re Connolly Walton* v. *C.* (1914), L.T. 688, may be referred to. It was there held that a bequest of shares in a particular company did not pass debentures and debenture stock where the testator actually possessed shares in the same company.

Equitable Mortgage—Deposit of Share Certificate—No Statute Bar.

Q. 2092. In the year 1917 A borrowed from her daughter, P, the sum of £50, and at the same time handed to her the certificate for certain shares in a limited company in the name of and belonging to A, stating that she was to hold the certificate until the debt was repaid. There is nothing whatever in writing in respect of the above, but evidence of the transaction could be given by witnesses. A has recently died, and P still holds the share certificate, and states that the £50 has not been repaid to her. Nothing has been ever done to prevent the Statutes of Limitation from running. A's personal representatives are now asking P to deliver the share certificate to them, which she refuses to do, contending that she has a lien upon it in respect of the £50. We shall be much obliged if you will inform us whether P's contention is correct, or not.

A. The deposit of the share certificate gave *A* an equitable lien or equitable mortgage (*Broadbent* v. *Varley*, 12 C.B. (N.S.) 214, *exparte Stewart*, *Re Shelley*, 34 L.J., Bk. 6). There is no statute of limitation applying to mortgages of pure personality. P can hold the certificate, and unless her right as mortgagee is admitted, she should take proceedings in the County Court to establish such right.

Covenant to Settle After-acquired Property—Scope Of.

Q. 2093. Mrs. A, who has recently died, was entitled to the income from two settled funds, X and Y, which she was restrained from anticipating. Mrs. B., Mrs. A's daughter, by a marriage settlement, made many years ago, covenanted to settle after-acquired property, except (*inter alia*) property of a less value than £100 vesting at the same time and from the same source, and except an annuity or other estate or interest for her life or for any period determinable with her death. Mrs. A, on becoming entitled some years ago to the income from settled fund Y, being unable legally to assign the same (as she wished) to Mrs. B, verbally agreed to pay the income as received to Mrs. B, and this arrangement was carried out, all moneys received by Mrs. A from both funds X and Y being paid to the bank account of Mrs. B, who expended on Mrs. A's account the income from fund X. Owing to Mrs. A's long illness, the amounts paid by Mrs. B on Mrs. A's behalf exceeded, during the last eighteen months of Mrs. A's life, the income from fund X by about £200. Mrs. A's estate consists chiefly of income apportioned to the date of her death of funds X and

Y, amounting to about £400. Two of Mrs. A's executors are trustees of Mrs. B's marriage settlement. Can Mrs. A's executors properly pay to Mrs. B the amount spent by her on behalf of Mrs. A in excess of the income of fund X, and can Mrs. B legally retain such amount as an annuity excepted from the after-acquired property clause ?

A. We take the view that Mrs. A's executors can properly pay to Mrs. B the excess sum of about £200, as being a debt due to her. We are of the opinion that Mrs. B can properly retain this amount not as being an annuity, but as representing the savings of Mrs. B invested by her in the way of a loan to Mrs. A. Savings of this nature are outside the common form of covenant to settle after-acquired property (*Finlay* v. *Darling* [1897] 1 Ch. 719; and Gibson's "Conveyancing," 12th Edition, p. 431, where this case is cited).

Parental Liability for Motor Accident.

Q. 2094. A, who is aged nineteen, knocked down a man in March this year when out driving one evening with his motor, and is being sued for damages. The father has not been joined in the action, and I shall be glad to know if you consider, in the event of the action going against the son, whether the father would be liable in any way for payment of the debt and costs. Perhaps you can give me your authority if you think the father would be liable. A is employed by his father, but the accident happened after working hours and the car had been taken by A without his father's authority.

A. The father would be in no way liable, as the plaintiff apparently accepts the circumstances stated in the last paragraph of the question as being a good defence for A's father. This is always a question of fact for the jury, however, and a father is usually joined to contest the point, particularly when he is also the employer.

Legal Parables.

LXV.

The Big Speech and the Little Dog.

There was once a young advocate who very much disliked being disturbed during his speeches. He was really doing very nicely in the lesser courts of the Metropolis and not infrequently had something in the High Court of Justice (King's Bench Division), for he had a very impressive manner acquired in the debating society of his distinguished university.

One day, for reasons which are not material, a valuable client prevailed upon him to accept a brief to appear before a bench of magistrates, in a remote country district with which he was totally unacquainted.

The atmosphere of the court did not meet with the young advocate's full approval, for it was exceedingly homely and informal—more informal even than an East End police court; so he decided to show the yokels present how things were done in London, and that the administration of justice was not a family party.

At first he was rather put off by the manœuvres of a small mongrel, which, after gambolling about the court for a while, concentrated its activities on him and began to chew the ends of his trousers in a friendly manner. However, a good kick soon rid him of the little brute's attentions, after which he got properly going, and finished up in splendid style.

He sat down all in a glow, when his valuable client turned on him fiercely: "You've done it now," he hissed; "we're in the soup. That was the chairman's dog. You've lost us the case." He had.

Morals:

(1) *Cave canem.*

(2) "Of humblest friends, bright creature, spurn not one."

In Lighter Vein.

THE WEEK'S ANNIVERSARY.

On the 18th December, 1682, Heneage Finch Earl of Nottingham died at his house in Great Queen Street, Lincoln's Inn Fields.

Eminent alike at the Bar and on the Woolsack, his eloquence earned him the title of the "silver tongued" and the "English Cicero," while his decrees have made him famous down to our own time as the "father of modern equity."

So many testimonies unite to praise him that it would be tedious to enumerate them all. Still, by way of contrast, it may be noted that the learned Blackstone praised his "great abilities and most incorruptible integrity," while Pepys, seeking rather an hour's recreation, found it "so pleasant to hear him plead."

His saying that "Milton was Latin secretary to Cromwell and deserved to be hanged," sounds strange to-day, but is rather to be attributed to the violent Royalism of his day than to any taint of personal brutality. He was in fact a patron of letters, besides being most conscientious in his ecclesiastical appointments.

Lord Nottingham's portrait may be seen in the Guildhall picture gallery among those of the other Caroline judges.

TRADITION SUPREME.

The appointment of Sir Isaac Isaacs to be Governor-General of Australia crowns the distinguished legal career of yet another man of the race of Moses and of Solomon. In this country we may reckon among the number Lord Reading, Lord Herschell and Sir George Jessel.

It was by an odd freak of historical association that the last-named, in becoming Master of the Rolls, became also *ex-officio* a trustee of the Society for the Conversion of the Jews.

The paradox is typical of English traditionalism, for to explain it one must go back to the thirteenth century, when on the site of the modern Record Office stood the House of Converts, an establishment for the reception of Jews who embraced Christianity. In time the number of converts diminished, and the Master of the Rolls came to occupy the buildings, inheriting also the duty of watching over the remnant of the occupants. Finally, by the sixteenth century, no converts at all remained, yet the obsolete tradition of the thirteenth century survived to create an amusing situation in the nineteenth.

JUDGES ON THE ROAD.

At the opening of the Bristol Assizes one of the horses drawing the great state coach slipped and fell, giving the vehicle a nasty jar. Happily, Finlay, J., and Commissioner O'Connor escaped injury.

The accident recalls a variety of road misfortunes which have befallen legal luminaries at one time or another.

There was the unpopular Serjeant Glynne, whose horse fell on him during the coronation procession of Charles II, "which the people do please themselves," writes Pepys "to see how just God is to punish the rogue at such a time as this."

Then there was the assize judge, who after a bad jolting on an abominable road fined the sheriff for the disrepair; and Lord Westbury, L.C., who remembered economy when his horses bolted; and Lord Thurlow, L.C., who swore with great fluency at a man who delayed his coach.

NOT A QUALIFIED SOLICITOR.

William Townley Cottam, LL.B., of Walmersley, Bury, was fined £20 and 10 guineas costs at Bury recently for drawing up a conveyance and an assignment of property for reward without being a duly qualified solicitor.

On his behalf, it was stated that had it not been for the war he would in all probability have now been a practising solicitor.

Notes of Cases.

House of Lords.

Egan *v.* **Attorney-General.** 27th November.

DISBANDMENT OF IRISH CONSTABULARY—COMPENSATION TO MEMBERS—BASIS OF CALCULATION—"SALARY"—"PAY"—ALLOWANCES.

This appeal from the Court of Appeal affirming a judgment of Eve, J., raised questions as to compensation to be paid to constables on the disbandment of the Royal Irish Constabulary. The questions were (1) whether the Treasury in awarding compensation to the appellants who were constables, and the widow of a constable, had awarded such compensation and pension in accordance with the Act, or whether the Treasury ought to have taken into account allowances to which the appellants were entitled at the time of the disbandment, and (2) whether the children of a deceased constable became entitled to a pension or allowance on the death of their father. The compensation awarded by the Treasury was made on the footing that the word "salary" in the Act meant annual pay and not annual pay and allowances. The refusal of a pension to children was based on an order which provided that no pension or allowance should be awarded to children of a deceased officer unless he died within twelve months after the grant of a pension.

LORD BUCKMASTER, in the course of his judgment, said the remuneration of the constabulary had consisted of a fixed sum and certain allowances, but it was expressly provided that none of the allowances should be taken into account in computing pensions. But it was said that the word "salary" was wide enough having regard to previous legislation to embrace all allowances. His lordship agreed with Russell, L.J., that the effect of the appellants' argument would be to add a fifth variation which was not there. With regard to children it was said that they were entitled to gratuities irrespective of whether their father died within the specified time or not. His lordship could not accept that view. On both points therefore the appeal must fail, but the Crown did not ask for costs.

The other noble lords (DUNEDIN, BLANESBURY, WARRINGTON OF CLYFFE and TOMLIN) concurred.

COUNSEL: *Alfred Dickie*, K.C., and *Hector Hughes*, K.C.; *The Attorney-General* (Sir William Jowitt, K.C.), *The Solicitor-General* (Sir Stafford Cripps, K.C.), *Stafford Crossman* and *Wilfrid Lewis*.

SOLICITORS: *Ranger, Burton & Frost; The Treasury Solicitor*.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Challis *v.* **Warrender.**

Avory, Swift and Acton, JJ. 3rd December.

GAMING—LOTTERY—COMPETITION—JUDGING ORDER OF MERIT AS DECIDED BY ALL COMPETITORS—ALLEGED NECESSITY FOR SKILL—LIMITED CLASS OF ENTRANTS.

Appeal by way of case stated from a decision of Mr. Hay Halkett, given at Marylebone Police-court on the 16th April, 1930.

The magistrate dismissed two informations laid by the appellant, Ernest Challis, on behalf of the Commissioner of Police of the Metropolis, charging the respondents, Lady Maud Warrender and Nathan Gordon, that on the 23rd and 24th January, 1930, they unlawfully published a proposal and scheme for the sale of tickets in a lottery, namely, a Grand National Mutual Subscription Fund, in aid of the Ellen Terry Memorial Museum, contrary to s. 41 of the Lotteries Act, 1823, and to ss. 4 and 21 of the Vagrancy Act, 1824. The scheme, as it was finally intended to be carried out, provided for the purchase of a 10s. ticket with which a list was supplied containing ten well-known rôles which had been filled by Ellen Terry. Subscribers were required to place in order of merit those ten rôles, the condition being that the first prize would be awarded to the competitor whose ballot ticket should be adjudged to correspond most nearly to the general vote of all the competitors. The competition, it was alleged, was only to be open to members of the theatrical profession and the persons whose names were in "Who's Who." The magistrate dismissed the informations, and the appellant now appealed.

AVORY, J., said that it was clear that the magistrate distinguished the present case from *Hobbs* v. *Ward* (45 T.L.R., 373), on the ground that in *Hobbs' Case* the competition appeared to be open to the public at large, whereas in the present case, as the magistrate said: "Different conditions apply in this case where the voting power could only be exercised by members of the theatrical profession and by persons whose names appear in 'Who's Who.'" It was clear that the competition was not limited to the theatrical profession or to those appearing in "Who's Who." Many of the latter were not more than twenty-one or twenty-two years of age, and never saw Ellen Terry and possibly did not know much about her rôles. He was unable to see any distinction between *Hobbs' Case* and the present one, or to see any evidence on which he could say that there was an element of skill. It seemed to him that the preference was not limited to the preference of educated people, but was open to the general public who might come into possession of those tickets. Appeal allowed, and the case remitted to the magistrate to convict.

COUNSEL: *G. B. McClure* for the appellant; *Vernon Gattie* for the respondents.

SOLICITORS: *Wontner & Sons; Gilbert Samuel & Co.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Christmas Vacation, 1930-1931.

NOTICE.

There will be no sitting in Court during the Christmas Vacation.

During the Christmas Vacation all applications "which may require to be immediately or promptly heard," are to be made to the Judge who for the time being shall act as Vacation Judge.

The Honourable Mr. Justice HUMPHREYS will act as Vacation Judge from Monday, 22nd December, to Wednesday, 31st December, 1930, both days inclusive. His Lordship will sit in King's Bench Judges' Chambers on Tuesday, 30th December, at half-past 10.

The Honourable Mr. Justice BENNETT will act as Vacation Judge from Thursday, 1st January, 1931, to Saturday, 10th January, 1931, both days inclusive. His Lordship will sit in King's Bench Judges' Chambers on Tuesday, 6th January, at half-past 10.

On days other than those when the Vacation Judge sits in Chambers, applications in urgent matters may be made to his Lordship, personally or by post.

When applications are made by post the brief of counsel should be sent to the Judge, by post or rail prepaid, accompanied by office copies of the affidavits in support of the application, and also by a minute, on a separate sheet of paper, signed by Counsel, of the order he may consider the applicant entitled to, and also an envelope, sufficiently stamped, capable of receiving the papers, addressed as follows: "Chancery Official Letter: To the Registrar in Vacation, Chancery Registrars' Chambers, Royal Courts of Justice, London, W.C.2."

The papers sent to the Judge will be returned to the Registrar.

The address of the Vacation Judge can be obtained on application at the Chancery Registrars' Chambers, Room 136, Royal Courts of Justice.

Chancery Chambers will be open for Vacation business (Master H. W. JELF, Room 315) from 10 to 2 on Wednesday, 24th December, Tuesday, 30th December, Wednesday, 31st December, 1930; Thursday, 1st January, Friday, 2nd January, and Tuesday, 6th January, 1931.

Chancery Registrars' Chambers,
Royal Courts of Justice.
December, 1930.

Societies.

Solicitors' Managing Clerks' Association.

THE ROAD TRAFFIC ACT, 1930.

At a meeting of the Solicitors' Managing Clerks' Association in the Inner Temple Hall on 28th November, Mr. Justice Swift took the chair, and Mr. C. Doughty, K.C., lectured on some of the more important sections of this Act.

Dealing with compulsory third party insurance, he said: "The Statute has made a great change in the law by providing that everybody except the police shall be insured against the risk of killing or of causing bodily injury to any person. When the owner of a vehicle applies for a taxation licence, he will have to produce a certificate of insurance. The policy must be issued by an approved company, that is to say, a company which has deposited with the Accountant-General of the High Court the sum of £15,000, and it must cover the risk of being ordered by a judge to pay damages in respect of bodily injuries.

"One of the most difficult questions in the Act arises from the exceptions to this rule. The policy need not cover the insured person against injury to persons who are in his employment so far as they may be injured by an accident which arises out of or in the course of the employment. The reason is obvious: it is thought unnecessary to insure twice people who come under the Workmen's Compensation Act. But there is a leak at the end of s. 36, for it is possible that an employer may not be insured in respect of such risks, and an unfortunate employee may find that he is left between the two Acts. Also, a person who is earning more than £350 and is therefore not protected by the Workmen's Compensation Act, is not necessarily protected by the Road Traffic Act.

"The next sub-section appears entirely contradictory: it states that the policy must cover persons who are carried in a vehicle by reason of or in pursuance of a contract of employment. The explanation of the Ministry of Transport is that this proviso—s. 36 (1) (*b*) (ii)—is inserted to cover the case of workpeople who are carried in the vehicles of their employers or of sub-contractors as one of the conditions of their employment, and may not be covered by the Workmen's Compensation Act. Otherwise passengers carried 'on' a vehicle (the proposition includes pillion riders) are not protected unless they are fare-paying passengers."

"THE POSSIBILITY OF REPUDIATION.

"There will still be many cases in which the insurers will—quite properly and successfully—be able to decline to give protection upon grounds such as failure to disclose material information, and, indeed, any of the ordinary grounds for repudiation, such as user outside the restrictive conditions or by persons not covered by the conditions. In these cases the injured party can only look to the person who ran over him to cover his damages.

"Nevertheless, an insurance company cannot refuse to protect the insured in the event of a breach of the conditions occurring after an accident: if, for instance, a policy contains a condition that upon the happening of an accident the insured shall immediately give notice to the company, and he fails to give notice immediately, the company will still be responsible to indemnify him against the claim of the injured person. The company may, however, by inserting a suitable clause, make the insured person responsible to them for any damages they have to pay to an injured party or his personal representatives.

"Sub-section 36 (4) is extremely obscure. It reads:—

> 'Notwithstanding anything in any enactment, the person issuing a policy of insurance under this section shall be liable to indemnify the persons or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of those persons or classes of persons.'

This means that persons in the position illustrated by the case of *Williams* v. *Baltic Insurance Refs*, and that of *Bransby Williams*—that is to say, other persons besides the insurer, such as his relatives or friends, whose third-party risks are covered by the policy—will be indemnified against third-party claims. The sub-section was drafted to make the decision in *Bransby Williams* law by statute. The phrase may well appear to mean, however, 'as soon as a company has issued a policy of insurance, they shall be liable in respect of any liability which the policy purports to cover.' This would prevent them from repudiating a policy, because the policy would by this interpretation be valid when the accident happened."

Mr. DOUGHTY then said that security was equivalent to insurance for the purposes of the Act, and might possibly become fashionable with rich corporations and individuals, and with persons who had so many accidents that their premium had become very heavy. The limits were £5,000 on claims against private owners and £25,000 on claims against owners of public service vehicles. It was therefore conceivable that in a very bad accident the security might not cover the amount of the damages.

INFORMATION THE CERTIFICATE MUST CONTAIN.

Mr. DOUGHTY continued:—"The company have to include in the certificate, and not merely in the policy, particulars of the limitations on the use of the car, an operation which will probably require in some cases a certain amount of skill. The certificate need not include all the conditions, but must show such restrictions as 'to be used for private purposes only,' 'not in connection with trade,' and 'not to be used for racing, pace-making or speed-testing.' As the company are responsible, they will have to examine every policy to see that the certificate contains all the relevant conditions. The purpose of this provision is that, when an accident happens, the certificate must be produced, not only to a police constable in uniform, but to any person who may reasonably request the driver to produce it; interested persons will then at once be able to see whether the car is apparently being used within the risks covered by the policy. It would, it seems, be sufficient to state in the certificate the classes of persons who are entitled to drive.

"The insurer when settling a case has to make enquiries as to whether any expense has been incurred by hospitals in attention to an injured person. The hospital is entitled to be paid its proper charges for attention up to £25 in each case.

"The Third Parties Rights Against Insurers Act secures indemnity to injured third parties even when the insured has become insolvent. This is a wise provision, because it will stop the wicked, but fortunately rare practice of an impecunious insured person who has injured another going to a possibly not very reputable company and compounding for the return of his policy, afterwards allowing judgment to go against him."

Mr. DOUGHTY then summarised the new speed limits and classifications of vehicles.

THE PENAL PROVISIONS.

Mr. DOUGHTY resumed: "Any person who gives false information for the purpose of obtaining a licence or a certificate is liable to a fine of £50 or to six months' imprisonment. There is therefore a further terror in store for the person who fills up the ordinary proposal form to a new insurance company carelessly, or allows a light-hearted agency to fill it up for him. The wording of that section is curious; it does not say that an owner is liable if he 'wilfully' withholds information, but if he does in fact withhold information. It will take a fairly good lawyer to know exactly what information is material, and what time must elapse before a former accident may be discreetly and safely forgotten. Some companies may require an exhaustive record of all accidents; others may limit the necessary information to the preceding two years. Disputes may arise on what accidents are or are not too trivial to disclose.

"The speed limit sections of the Act must always be considered in connection with the 'dangerous driving' section; a driver may be convicted of dangerous driving, even though the substantive evidence is that he was going too fast, if there were other circumstances such as the presence of cross roads, the possibility that other traffic might have been on the highway, and other factors that cannot be defined or limited. The penalty for dangerous driving is £50 or four months' imprisonment for the first offence, and £100 or four months' imprisonment for a second offence and six months' and/or fine on indictment. An accused person can therefore elect to be tried before a jury, and will be warned that they can so elect.

CARELESS DRIVING.

"'Careless driving' is an entirely new offence which consists in driving a motor vehicle on a road without due care and attention, or without reasonable consideration for other persons using the road. Compared to reckless or dangerous driving, it is not a serious offence. There is no authority for it, and it will probably be interpreted in a very diverse manner in different parts of the country. The interesting question will arise of whether a person who is charged with dangerous driving on indictment can be convicted of careless driving. Counsel defending an indicted person will naturally be very glad if he can. It will probably not arise much in police courts, because the police will no doubt issue two summonses, one for each offence; the wise driver will then—if he can—plead guilty to the one and hope thereby to escape the consequences of the other.

"The definition of 'drunk' is changed. Until the first of January, a driver will be entitled to drive unless he is 'really' drunk. But after that he cannot lawfully drive when under the influence of drink or drugs to such an extent as

being incapable of having proper control of the vehicle. The section says 'or' drugs, so that it seems that the policeman who arrests a driver must make up his mind at once whether the driver is drunk or under the influence of drugs. Presumably the person who is charged with being in the one condition will be able to plead in defence that he was actually in the other!"

Mr. Elphick proposed and Mr. Ebenezer Smith seconded a vote of thanks to the Chairman, the speaker and the Masters of the Bench. The Chairman, in reply, expressed his pleasure at the passing of the Act and foresaw busy times for lawyers.

Hampshire Incorporated Law Society.

[COMMUNICATED.]

The thirty-ninth annual general meeting of the Hampshire Incorporated Law Society was, by kind permission of His Worship the Mayor of Winchester, held at the Abbey House, Winchester, on Monday 17th November, the President (Major R. Bullin, J.P.) being in the chair.

Before the meeting commenced, His Worship the Mayor extended a hearty welcome to the members of the Society to the City of Winchester.

The President then expressed the thanks of the meeting to the Mayor for his presence and for the use of the room.

After the adoption of the annual report and balance sheet, the following officers were elected for the ensuing year:—President, Mr. P. W. Snelling, Winchester. Vice-President, Mr. C. E. Martin, Southampton. Committee: Mr. J. C. Dominy, Eastleigh; Mr. H. H. Payne, Portsmouth; Mr. C. B. Pinnock, Portsmouth; Mr. W. H. Abbott and Mr. P. C. Mead, Southampton. Hon. Secretary and Treasurer, Mr. L. F. Paris, Southampton.

The new President, having been duly invested with his badge of office, returned thanks for his election, and moved a resolution of thanks to the retiring President for his services during the past year, to which Major Bullin suitably replied.

The President then gave an interesting address, based upon the connexion of the City of Winchester with the law. Commencing with the time of the Druids, 100 B.C., he traced the various connexions of the City of Winchester and the law through the Roman occupation; the Anglo-Saxon Kings, up to the time of Queen Elizabeth, mentioning in particular the laws of King Ina, King Alfred, King Athelstan, and King Edgar, during whose reign the first licensing legislation appears to have been passed; the steps taken being the placing of pegs in the cup which was passed, round and the punishment of anyone whose drink extended beyond his right peg. He also referred to the trial by ordeal in Winchester Cathedral of Queen Emma, and the trials of Earl Walthorf, the Earl of Surrey and Sir Walter Raleigh.

A vote of thanks to the President for his address was, on the proposition of the Vice-President, unanimously accorded.

The members subsequently dined together in the Guildhall, when the guests included The Right Honourable Viscount Finlay of Nairn, K.B.E., the Mayor of Winchester, the High Sheriff of Hampshire, the Recorders of Andover, Shrewsbury and Devizes, Mr. J. H. Harris, Metropolitan Police Magistrate, Mr. Maurice Liddel, the Judge's Marshal, Dr. Cook, the law lecturer, and numerous barristers and other members of the legal profession, guests of private members.

During the course of the evening the Society's prize and the Ford prize were handed to Mr. Leslie Burley, who obtained Second-class Honours during the past year, and it was announced that the other prize-winner, Miss I. L. Eteson, was unfortunately absent through illness.

Law Students' Debating Society.

At a meeting of the Society held at The Law Society's Hall, on Tuesday, 9th December, 1930 (chairman, Mr. H. J. Baxter), a moot was held upon the following circumstances: "A was walking along the public highway under a sunblind outside B's shop, when a part of the sunblind fell without warning and caused A injury. A brings an action against B for damages, and evidence at the trial shows that the accident was due to a latent defect, and that there was no negligence on the part of B." The motion was "That A is entitled to succeed in his action." Miss C. Morrison opened in the affirmative. Mr. H. F. C. Morgan opened in the negative. Miss M. K. Williamson seconded in the affirmative. Miss E. Stannard seconded in the negative. The following members also spoke: Messrs. W. M. Pleadwell, R. D. C. Graham, Miss E. S. Cameron, Messrs. H. Daniels, L. J. Frost (visitor), D. R. Boult, A. L. Ungoed-Thomas, E. Barry O'Brien, A. E. Oliver (visitor), J. C. Christian Edwards. The opener having replied, and the chairman having summed up, the motion was lost by two votes. There were eighteen members and four visitors present.

Discharged Prisoners' Aid Society.

The Central Discharged Prisoners' Aid Society promotes co-operation among fifty-four Discharged Prisoners' Aid Societies which, on the average, assist nearly 30,000 discharged prisoners every year without regard to religion, sex or age. In commending the work of the Societies everywhere, the Archbishop of Canterbury wrote recently: "As one who was himself a prison chaplain for six years, I know well how invaluable the help is which these societies in all parts of the country extend to those who have come within the prison. Without it in many cases these people would despair of any chance of recovery and drift still further into difficulty." The work of the societies throughout the country embraces a wide field of voluntary service, but, where necessary, there are paid agents, whose duty it is to carry out the arrangements made by the committee of each society for assisting and finding employment for discharged prisoners. The Central Society, of which the King is patron, deals with difficult cases submitted to it by any of its constituent societies, and assists the local societies by making them grants from their funds, by giving advice and by rendering such assistance as may be asked for. Contributions for this urgent work for the ex-prisoner may be sent to the secretary, Central D.P.A. Society, Victory House, Leicester Square, London, W.C.2.

Parliamentary News.

House of Commons.

Questions to Ministers.

PREVENTION OF CORRUPTION ACTS.

Mr. MANDER asked the Attorney-General the number of applications which have been made for the fiat under the Prevention of Corruption Acts since 1st January, 1907; the number granted; and the number of convictions, distinguishing between England, Wales, Scotland, Northern Ireland and the Irish Free State before its establishment?

The ATTORNEY-GENERAL: The fiat of the Attorney-General is restricted to offences committed in England and Wales, and I am only able to give figures in connection with such cases. There have been 880 applications, fifty of which were abandoned before the grant of a fiat. The fiat has been granted in 778 cases, and reports of convictions have been received in 559 cases. It is not possible to distinguish the English from the Welsh cases. [15th December.

COMPANIES ACT.

Mr. MANDER asked the President of the Board of Trade how many public and private limited companies have failed to comply, according to the latest date available, with the Companies Acts in the matter of issuing accounts and holding statutory meetings?

Mr. W. GRAHAM: It is not possible until after the expiration of a calendar year to state how many companies are in default in filing their annual return for that year, and consequently the latest figures at present available relate to 1929. In respect of that year twelve public companies—none of which are of any public importance—and 120 private companies are in default in filing their annual return, which in the case of public companies has to be accompanied by a copy of the last audited balance sheet. It is not possible to say how many companies are in default in holding annual meetings, as the information required by law to be filed with the Registrar does not enable him to ascertain the precise dates at which annual meetings fall due to be held.

[16th December.

JUSTICES OF THE PEACE.

Mr. DAY asked the Attorney-General the number of transfers of magistrates from one bench to another which have taken place during the previous two years, and been recommended by the advisory committees to the Lord Chancellor on the ground of change of residence?

The LORD ADVOCATE: I have been asked to reply. No record is kept of the number of magistrates transferred from one Commission of the Peace to another; but the names of those recommended for transfer are communicated to the appropriate advisory committee, for favourable consideration. [16th December.

Legal Notes and News.

Honours and Appointments.

The Minister of Health, with the approval of the Prime Minister, has appointed Sir E. J. STROHMENGER, K.B.E., C.B., to be Deputy Secretary to the Ministry of Health, in succession to Mr. E. R. Forber, C.B., C.B.E., and Mr. S. H. G. HUGHES, C.B.E., to be Principal Assistant Secretary for Finance and Accountant-General of the Ministry.

Professional Announcements.

(2s. per line.)

Mr. HOWE COWAN (LL.B. New York University), barrister and solicitor (St. John, New Brunswick, Canada), announces that after being identified with some of the large law offices in New York City for the past ten years, he has opened his own offices as Professional Correspondent for Lawyers on Admiralty, Legal and Tax matters, as affecting British subjects and their interests, at 15, Park-row, New York City. 'Phone: Worth 2484; Cable address: "Howcowan," New York.

Wills and Bequests.

Mr. George S. Bray, solicitor, of Gwennap, left £9,406, with net personalty £7,365.

Sir Guy Stephenson, Assistant Director of Public Prosecutions, of Egerton Gardens, Chelsea, left property worth £20,270, with net personalty £18,848.

Mr. James Fleck Burnicle, Solicitor and Notary Public, of Sunderland, Durham, Coroner for Sunderland since 1907, a member of the Sunderland Town Council, and a direct descendant of Captain Cook, left £12,065, with net personalty £9,153. He left (*inter alia*):—A brooch (formerly a buckle) which had belonged to Captain Cook, "and was given to my grandmother, Ann Burnicle, by Mrs. Cook, the captain's widow," to his niece, Kathleen Mary Burnicle, desiring that it should remain in the family.

NEW BENCHERS OF GRAY'S INN.

Mr. Noel Middleton, Mr. Nicholas Lechmere Cunningham Macaskie, K.C., Mr. William Trevor Watson, K.C., Mr. Harold Derbyshire, K.C., and Sir Albion Richardson, K.C., have been elected Benchers of the Honourable Society of Gray's Inn.

COST OF LITIGATION.

The attention of the London Chamber of Commerce has been drawn to the fact that there is a prevalent impression that nothing has been done as a result of its deputation on the cost of litigation to the Lord Chancellor last month.

Far from this being the case, the Law Society and the General Council of the Bar undertook on that occasion to consider the Chamber's Memorandum in detail and to report to the Lord Chancellor as to the practicability of modifying the expenses of litigation in the directions suggested by the Chamber.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

	GROUP I.			
DATE	EMERGENCY ROTA	APPEAL COURT No. 1	MR. JUSTICE EVE. Witness. Part II.	MR. JUSTICE MAUGHAM. Witness. Part I.
M'nd'y Dec. 22	Mr. More	Mr. Jolly	Mr. Ritchie	Mr. Jolly
Tuesday .. 23	Ritchie	Hicks Beach	Blaker	Ritchie
	GROUP I.		GROUP II.	
	MR. JUSTICE BENNETT Non-Witness.	MR. JUSTICE CLAUSON. Witness. Part I.	MR. JUSTICE LUXMOORE. Non-Witness.	MR. JUSTICE FARWELL. Witness. Part II.
M'nd'y Dec. 22	Mr. Blaker	Mr. More	Mr. Andrews	Mr. Hicks Beach
Tuesday .. 23	Jolly	Hicks Beach	More	Andrews

*The Registrar will be in Chambers on these days, and also on the days when the Courts are not sitting.

The CHRISTMAS VACATION will commence on Wednesday, the 24th day of December, 1930, and terminate on Tuesday, the 6th day of January, 1931, inclusive.

VALUATIONS FOR INSURANCE. It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is frequently very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac, a speciality. 'Phone: Temple Bar 1181-2.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (1st May 1930) 3%. Next London Stock Exchange Settlement Thursday, 8th January, 1931.

	Middle Price 17 Dec. 1930.	Flat Interest Yield. £ s. d.	Approximate Yield with redemption £ s. d.
English Government Securities.			
Consols 4% 1957 or after	92	4 7 0	—
Consols 2½%	57¼xd	4 6 11	—
War Loan 5% 1929-47	103	4 17 1	—
War Loan 4½% 1925-45	101	4 9 1	4 8 0
War Loan 4% (Tax free) 1929-42	100⅞	3 19 4	3 18 0
Funding 4% Loan 1960-90	94½	4 4 8	4 5 0
Victory 4% Loan (Available for Estate Duty at par) Average life 35 years	96½	4 2 11	4 4 0
Conversion 5% Loan 1944-64	105¾	4 14 7	4 13 3
Conversion 4½% Loan 1940-44	101	4 9 1	4 8 0
Conversion 3½% Loan 1961	81	4 6 5	—
Local Loans 3% Stock 1912 or after	67¼	4 8 11	—
Bank Stock	266½	4 10 1	—
India 4½% 1950-55	87	5 3 6	5 8 9
India 3½%	63xd	5 11 1	—
India 3%	53xd	5 13 2	—
Sudan 4½% 1939-73	100	4 10 0	4 10 0
Sudan 4% 1974	90	4 8 11	4 10 6
Transvaal Government 3% 1923-53 (Guaranteed by Brit. Govt. Estimated life 15 yrs.)	84½	3 11 0	4 1 0
Colonial Securities.			
Canada 3% 1938	91xd	3 5 11	4 8 6
Cape of Good Hope 4% 1916-36	97	4 2 6	4 11 6
Cape of Good Hope 3½% 1929-49	86	4 1 5	4 12 9
Ceylon 5% 1960-70	103	4 17 1	4 16 6
Commonwealth of Australia 5% 1945-75	80xd	6 5 0	6 7 0
Gold Coast 4½% 1956	98xd	4 11 10	4 12 6
Jamaica 4½% 1941-71	98	4 11 10	4 12 0
Natal 4% 1937	97	4 2 6	4 11 9
New South Wales 4½% 1935-1945	69¼xd	6 9 6	7 19 0
New South Wales 5% 1945-65	76½	6 10 9	6 15 3
New Zealand 4½% 1945	98	4 11 5	4 14 0
New Zealand 5% 1946	102xd	4 18 0	4 16 6
Nigeria 5% 1950-60	105	4 15 3	4 13 9
Queensland 5% 1940-60	76½	6 10 9	6 17 0
South Africa 5% 1945-75	102xd	4 18 0	4 17 6
South Australia 5% 1945-75	79¼xd	6 5 9	6 8 4
Tasmania 5% 1945-75	84½	5 18 4	6 0 0
Victoria 5% 1945-75	79½	6 5 9	6 8 4
West Australia 5% 1945-75	80½	6 4 3	6 6 0
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	66	4 10 11	—
Birmingham 5% 1946-56	105	4 15 3	4 13 6
Cardiff 5% 1945-65	102	4 18 0	4 17 6
Croydon 3% 1940-60	75	4 2 2	4 11 0
Hastings 5% 1947-67	105	4 15 3	4 14 3
Hull 3½% 1925-55	83	4 4 4	4 13 6
Liverpool 3½% Redeemable by agreement with holders or by purchase	78	4 13 4	—
London City 2½% Consolidated Stock after 1920 at option of Corporation	57	4 7 9	—
London City 3% Consolidated Stock after 1920 at option of Corporation	68	4 8 3	—
Metropolitan Water Board 3% "A" 1963-2003	69	4 6 11	—
Metropolitan Water Board 3% "B" 1934-2003	70	4 5 9	—
Middlesex C.C. 3½% 1927-47	87	4 0 6	4 12 6
Newcastle 3½% Irredeemable	75	4 13 4	—
Nottingham 3% Irredeemable	66	4 10 11	—
Stockton 5% 1946-66	104	4 16 2	4 15 3
Wolverhampton 5% 1946-56	104	4 16 2	4 14 6
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	85	4 14 2	—
Gt. Western Railway 5% Rent Charge	102	4 18 0	—
Gt. Western Rly. 5% Preference	95½	5 4 9	—
L. & N.E. Rly. 4% Debenture	78	5 2 7	—
L. & N.E. Rly. 4% 1st Guaranteed	74½	5 7 5	—
L. & N.E. Rly. 4% 1st Preference	56	7 2 10	—
L. Mid. & Scot. Rly. 4% Debenture	82	4 17 7	—
L. Mid. & Scot. Rly. 4% Guaranteed	78	5 2 7	—
L. Mid. & Scot. Rly. 4% Preference	62¼	6 8 0	—
Southern Railway 4% Debenture	85	4 14 2	—
Southern Railway 5% Guaranteed	101	4 19 0	—
Southern Railway 5% Preference	92	5 8 8	—

ADVERTISEMENTS OF REGISTERED ANNUAL SUBSCRIBERS ARE INSERTED FREE OF CHARGE UNDER APPOINTMENTS VACANT, APPOINTMENTS WANTED, PRACTICES AND PARTNERSHIPS, AND ARTICLED CLERKS.

NOTICE TO SUBSCRIBERS.

The Assistant Editor would appreciate the courtesy if Subscribers would kindly notify him at once when Appointments have been filled or obtained.

PUBLIC NOTICES.

H.M. LAND REGISTRY.

NOTICE.

G. R.

H.M. Land Registry will be closed on the 25th, 26th, and 27th December.

BY ORDER.

APPOINTMENTS VACANT.

TO AMBITIOUS Unarticled Law Clerks.—Negus-Premier Law Clerks College (Legal Dept.) Byron-street, Bradford, has specially prepared correspondence Courses for Law Clerks on the Law and Practice of Conveyancing; Solicitors' Book-keeping, Costs and Office Organisation; Probate and Estate Duty Practice; Common Law and Torts; A General Course for Junior Law Clerks; County Court work and Practice; Company Law (1929) Act; Income Tax Law and Practice; Law Society's Intermediate Examination; Law Society's Preliminary Examination, etc.; and particulars will be furnished on application. Mention course in which you are interested.

SMART Youth required with some knowledge of court work and general office work, salary commencing £2 5s. per week.—Box 614, Solicitors' Journal, 29, Breams-buildings, E.C.4.

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APPOINTMENTS WANTED.

CONVEYANCING Clerk (30), 15 years' experience in London, knowledge probate, administration, company, etc., desires post in western suburbs or home county; able to act without supervision.—Write Box 624, Solicitors' Journal, 29, Breams-buildings, E.C.4.

YOUNG Public School man (aged 22), about to be admitted Solicitor, wants post in Conveyancing office with a view to further experience. Moderate salary. Leeds District or London preferred.—Write Box 611, Solicitors' Journal, 29, Breams-buildings, E.C.4.

CLERK, age 20. Experienced in Land Registry and Somerset House work. Examination of deeds, completions, etc., also slight knowledge of court practice, typewriting, requires situation. Highest testimonials. Salary to commence £130 per annum. Write Box 620, Solicitors' Journal, 29 Breams-buildings, E.C.4.

LAW.—Advertiser desires Managing Clerkship in small office; 11½ years' experience common law, police court and general practice. Able to act without supervision, interview clients, etc.—Box 619, Solicitors' Journal, 29, Breams-buildings, E.C.4.

YOUNG Solicitor, experience with busy provincial firm, desires post as assistant, preferably with view to partnership in London, provinces or abroad. Free now.—Box 593, Solicitors' Journal, 29, Breams-buildings, London, E.C.4.

SOLICITOR, aged 34, acting temporarily as assistant to an old-established country firm, desires permanent engagement in the provinces. Experienced in conveyancing, probate, administration; High Court and County Court procedure.—Box 515, Solicitors' Journal, 29, Breams-buildings, E.C.4.

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SOLICITOR (35), Cambridge graduate, desires Managing Clerkship. Good general experience.—Apply "Alpha," Box 320, Solicitors' Journal, 29, Breams-buildings, E.C.4.

YOUNG Solicitor (23), November Final, 1929 (Honours), trained in busy country practice, experienced in Conveyancing, Probate, Magisterial and County Court procedure, desires post where hard work and further experience available.—Write Box 425, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR, B.A., LL.B. (Camb.), available for locum work or to assist busy solicitor. South. Conveyancing, probate, trust, and general.—Box 95, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR, experienced in Conveyancing, is open to assist solicitors by post.—Box B. 331, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR, aged 25, Honours University and Honours March, 1930, desires post in London or colonies where advocacy required. Good general training and some experience of advocacy. Capital available.—Write Box 598, Solicitors' Journal, 29, Breams-bldgs., E.C.4.

EX-OFFICERS AND OTHER RANKS.

THE Proprietors of The Solicitors' Journal have placed this space at the disposal of THE BRITISH LEGION OFFICERS' ASSOCIATION, EMPLOYMENT BUREAU, 3-4, Clement's Inn, Strand, London, W.C.2 (Telephone Holborn 5769), to whom all replies should be addressed, quoting number of advertisement, date of insertion and the name of this paper.

SALES Engineer, 38, nine years' wide practical and commercial experience, electrical and mechanical. Advertising, estimating. Exports. Dis.346

EX-OFFICER, Patentee desires to get in touch with sheet metal work manufacturers and distributing agents to manufacture number shown on page 973 *Autocar*, 7th November. 12491

EX-OFFICER, Public School, 36, seeks position of trust. Experience general engineering (marine, motor, steam and agricultural), also fully conversant management office staff and control of men. Physically fit, fond of sport, willing go anywhere. Excellent references. 12009

EX-OFFICER, 36, married, Wykehamist, culture, personality, initiative, seven splendid testimonials. Business ability and experience, seeks work, organising, secretarial, sales management, welfare or art and industrial design. 4890

MAJOR, Regular Reserve, bachelor, 35, Military Cross, mentioned in despatches, twice wounded, 39 months front line, served Nigeria and Foreign Legion; author two novels; widowed mother, invalid brother; desperately seeks post. Highest reference. 10276

EX-OFFICER, Barrister, English Bar, Solicitor, Colonial Supreme Court, with years of practical experience, desires secretarial or other post. Thorough knowledge accountancy and proficient at shorthand, typewriting, driving car. Excellent testimonials. 757

ARTICLED CLERKS, &c.

SOLICITORS, General Practice and Clerks to local and public authorities in North Wales have vacancy for articled clerk. Personal supervision. Premium required.—Box 622, Solicitors' Journal, 29, Breams-buildings, E.C.4.

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RE Mrs. JANE BAILEY, deceased, late of 29, Albert-road, Handsworth, Birmingham, and who died 3rd August, 1930. Anyone having knowledge of a Will made by the above in Birmingham in or about the year 1916 please communicate with Box 584, Solicitors' Journal, 29, Breams-buildings, E.C.4.

RE Mrs. QUEENIE J. E. REEVES, deceased.—Will the Solicitor who acted for, or prepared a Will for Mrs. REEVES, late of 11, Hornley Place, Paddington, W.9, and who died June 24th, 1930, please communicate with Box 566, Solicitors' Journal, 29, Breams-buildings, E.C.4.

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